



Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

MICHIGAN LAW REVIEW

VOLUME XX
1921-1922

UNIVERSITY OF MICHIGAN
LAW SCHOOL

ANN ARBOR, MICHIGAN

1922

COPYRIGHT, 1921-1922
By MICHIGAN LAW REVIEW ASSOCIATION

TABLE OF CONTENTS

ARTICLES

COMMERCE CLAUSE AS A RESTRICTION ON STATE TAXATION— <i>J. M. Landis</i> ..	50
COMPULSORY CONSTRUCTION OF NEW LINES OF RAILROAD— <i>Kenneth F. Burgess</i>	699
CONSTITUTIONAL LAW IN 1920-1921, I, II, III, IV, V— <i>Thomas Reed Powell</i>	I, 135, 261, 381, 469
DUE PROCESS AND PUNISHMENT— <i>Clarence E. Laylin and Alonzo H. Tuttle</i>	614
EMOTIONAL DISTURBANCE AS LEGAL DAMAGE— <i>Herbert F. Goodrich</i>	497
EX POST FACTO IN THE CONSTITUTION— <i>Oliver P. Field</i>	315
GROWTH AND DEVELOPMENT OF THE POLICE POWER OF THE STATE— <i>Collins Denny, Jr.</i>	173
INDEMNITY ACT OF 1863: A STUDY IN THE WARTIME IMMUNITY OF GOVERNMENTAL OFFICERS— <i>James G. Randall</i>	589
JUDGES IN THE BRITISH CABINET AND THE STRUGGLE WHICH LED TO THEIR EXCLUSION AFTER 1806— <i>Arthur Lyon Cross</i>	24
JUDGES IN THE EXECUTIVE COUNCIL OF UPPER CANADA— <i>William R. Riddell</i>	716
MINISTERIAL AND DISCRETIONARY OFFICIAL ACTS— <i>Edwin W. Patterson</i> ...	848
MUTUALITY IN SPECIFIC PERFORMANCE— <i>Edgar Noble Durfee</i>	289
NET INCOME AND JUDICIAL ECONOMICS— <i>Henry Rottschaefer</i>	577
NEUTRALITY OF BRITISH DOMINIONS— <i>C. D. Allin</i>	819
OBJECTIVE LAW EXAMINATIONS— <i>George P. Costigan</i>	514
REQUISITIONED AND THE GOVERNMENT-OWNED SHIP— <i>J. Whila Stinson</i>	407
SERVICE AS A REQUIREMENT OF DUE PROCESS IN ACTIONS IN PERSONAM— <i>Charles Kellogg Burdick</i>	422
SOCIAL AND ECONOMIC INTERPRETATION OF THE FOURTEENTH AMENDMENT— <i>Robert E. Cushman</i>	737
SOME GREEK LEGAL PAPYRI FROM THE MICHIGAN COLLECTION— <i>A. E. R. Boak</i>	839

AUTHORS OF ARTICLES

Allin, C. D.— <i>Neutrality of the British Dominions</i>	819
Boak, A. E. R.— <i>Some Greek Legal Papyri from the Michigan Collection</i>	839
Burdick, Charles Kellogg— <i>Service as a Requirement of Due Process in Actions in Personam</i>	422
Burgess, Kenneth F.— <i>Compulsory Construction of New Lines of Railroad</i>	699
Costigan, George P.— <i>Objective Law Examinations</i>	514
Cross, Arthur Lyon— <i>Judges in the British Cabinet and the Struggle which Led to Their Exclusion after 1806</i>	24
Cushman, Robert E.— <i>Social and Economic Interpretation of the Four- teenth Amendment</i>	737
Denny, Collins, Jr.— <i>Growth and Development of the Police Power of the State</i>	173
Durfee, Edgar Noble— <i>Mutuality in Specific Performance</i>	289
Field, Oliver P.— <i>Ex Post Facto in the Constitution</i>	315
Goodrich, Herbert F.— <i>Emotional Disturbance as Legal Damage</i>	497
Landis, J. M.— <i>Commerce Clause as a Restriction on State Taxation</i>	50
Laylin, Clarence E.— <i>Due Process and Punishment</i>	614
Patterson, Edwin W.— <i>Ministerial and Discretionary Official Acts</i>	848
Powell, Thomas Reed— <i>Constitutional Law in 1920-1921, I, II, III, IV, VI, 135, 261, 381, 469</i>	
Randall, James G.— <i>Indemnity Act of 1863: A Study in the Wartime Immunity of Governmental Officers</i>	589
Riddell, William R.— <i>Judges in the Executive Council of Upper Canada</i> ..	716
Rottschaefer, Henry— <i>Net Income and Judicial Economics</i>	577
Stinson, J. Whitla— <i>Requisitioned and the Government-Owned Ship</i>	407
Tuttle, Alonzo H.— <i>Due Process and Punishment</i>	614

SUBJECT INDEX

ACTIONS—(See also Remedies)	
For Wrongful Death	236
Regulation of.....	267
Restriction of, by Contract.....	670
Trespass as Local Action	913
ADMINISTRATIVE POWER.....	487
ADMIRALTY LAW—Hydroplane as a "Vessel".....	664
Immunity of State-Owned Ships.....	771
Jurisdiction	476, 535
Workmen's Compensation Act.....	664
ADVERSE POSSESSION—As Giving Marketable Title.....	347
Interruption of.....	441
AGENCY—(See also Brokers, Persons)	
Agent's Liability for Negligence	906
Compensation of Agent	666
Husband's Liability for Wife's Purchases.....	452
Liability on Sealed Contract.....	441
Performance by Broker, What Constitutes	910
Responsibility of Unincorporated Union.....	683
ANCIENT LAW—Translations of Papyri	839
APPEAL AND ERROR—(See also Trial)	
Conduct of Trial in Territory	215
Duty of Court to Instruct.....	365
Extension by Agreement, of Time Limit for Settling Exceptions	907
Exceptions to Charge	250
Incompetence of Attorney	684
Presumption of Prejudice from Error	442
ASSAULT—Consent as a Defense	798
ASSIGNMENT—Of an Expectancy	786
Of Contract Involving Personal Service.....	103
ASSUMPTION OF RISK—(See Negligence)	
ATTACHMENT—(See Remedies)	
ATTORNEYS—Contingent Fees	332
Incompetence of Attorney as Ground for New Trial.....	684
ATTORNEYS—Reinstatement at Bar	889
Right of Access to Imprisoned Client.....	799

BANKS AND BANKING—Power of Congress to Create Banks.....	18
BIGAMY—Mistake of Fact.....	108
BILLS AND NOTES—Payee as Holder in Due Course.....	908
BILLS OF LADING—Limitation of Liability by.....	348, 350, 768
Telegram as	227
BONA FIDE PURCHASERS—Good Faith.....	681
Who are	347
BROKERS—Compensation on Buyer's Default.....	666
BULK SALES ACT	909
CABINET—British, Judges in.....	24
Canadian, Judges in.....	716
CANCELLATION—Mistake	793
Unconscionableness	795
CARRIERS—(See also Bills of Lading)	
Compulsory Construction of Railroads.....	699
Cummins Amendment, Second	765
Delivery to Wrong Person.....	667
Liability for Baggage	787
Limitation of Liability	348, 445
Rate Regulation, Constitutionality of.....	192
Regulation of, in General.....	699
Termination of Liability	350
Vessels Owned by State, Immunity of.....	771
CHARITIES—Care of Burial Lot.....	228
“CHECK-OFF SYSTEM”—Injunction of.....	548
CHILD—Meaning of in Statute Allowing Action for Death.....	446
CHILD LABOR LAW—Constitutionality of.....	446
CITIZENSHIP—“Statelessness”	115
COMMERCE—Commerce Clause and State Taxes.....	50
Federal Control of Intrastate Rates.....	675
Protection by Injunction	242
Rate Regulation by States.....	193, 675
Regulation of, in General.....	135
COMMISSIONS—Judicial Review	231
CONDEMNATION OF PROPERTY.....	287
CONFESSIONS—Determination of Character of by Judge or Jury.....	912

TABLE OF CONTENTS

vii

CONFLICT OF LAWS—State and Federal	491
CONSERVATION OF RESOURCES.....	261
CONSIDERATION—(See Contracts)	
CONSTITUTIONAL LAW—Administrative Power.....	487
Adoption and Amendment	100
Application to Unincorporated Territory.....	215
Campaign Expenditures	12
Commerce Clause as a Restriction on State Taxation.....	50
Commerce, Regulation of	135
Compelling Information for Taxation Purposes.....	527
Compelling Construction of Railroads.....	699
Control by States of Foreign Corporations	68
Corporation Charters, Impairment of	358
Courts, Jurisdiction of	469
Delegation of Legislative Power	652
Eighteenth Amendment, Scope of.....	3
Employment, Regulation of.....	206
“Ex post facto,” Meaning of.....	315
Federal Land Banks and Joint Stock Banks.....	18
“Federal Question”	469
Federal War Powers	4
Foreign Corporation, Discrimination Against	229
Foreign Corporations, Removal of Suits by.....	897
Fourteenth Amendment, Interpretation of	737
Freedom of Speech	II, 265, 401, 538
“Full Faith and Credit”	423, 486
Immunity of Military Officers	589
Impairment of Contracts	358, 381
Indian Lands, Power of Congress Over	11
Injunction in Labor Disputes	657
Intergovernmental Regulations	491
Jurisdiction of Courts	469
Jury Trial, Right to	404
Kansas Industrial Court	893
Labor Disputes, Injunction in	657
Municipal Zoning	455
Nineteenth Amendment	102, 669
Obligation of Contract	183, 358
Operation on Prisoners	101
Police Power	173
Power of British Dominions to Declare Neutrality.....	819
Power of Congress Over Indian Lands	11
Power of Congress Over Campaign Expenditures	12
Price Restriction	9

Privilege and Immunities	12, 191
Public Use of Money, Soldiers' Bonus	352
Punishment in Absence of <i>mens rea</i>	614
Race Legislation	201
Rate Regulation, Equal Protection	557
Rate Regulation, Judicial Review	231
Recognition of Foreign Government	244
Regulation of Commerce	135
Regulation of Employment	206
Searches and Seizures	93
Soldiers' Bonus	352
Supreme Court Decisions, 1920-1921.....	I
Taxation	150, 230
Taxation, Equal Protection	166
Taxation, Regulation by	446
Time Element in Adopting Amendments	I
Vaccination	199
War Powers	4
CONTINGENT FEES	332
CONTINUING TRESPASS	337
CONTRACTS—Acceptance	232, 554, 790
Assignability of Rights	103
Benefit of Third Person	107, 543
Bid at Auction Conditionally Accepted	554
Breach of Condition in Sale, Effect of	560
Breach of Promise to Marry, Defenses	444
Consideration	104, 105, 232, 649
Construction of	247
Fraud in Inducement to Marry	454
Illegality	106, 355
Illegality, Effect of War	676
Illegality, Limiting Right of Action	670
CONTRACTS—Illegality of "Tying Clauses" in Leases of Machinery....	911
Irrevocable Offers.....	788
Limiting Liability	445
Limiting Right of Action	670
Mutual Assent	355
Notice, to Fix Liability	668
Obligation of	183
Oral Contract Intended to be Reduced to Writing	355
Oral Rescission of Written Contract	358
Oral Variation of Written Contract	356
Performance, When	910
Rescission by Parol	358

TABLE OF CONTENTS

ix

Restraint of Trade	541
Revocable Offers	788
Silence as Acceptance	790
Specific Performance at Law	437
Third Party Beneficiary	107, 543
Translation of Ancient Papyri	839
Wagers	233
Waiver of Statute of Limitations	789
CONTRIBUTORY NEGLIGENCE—(See Negligence)	
CORPORATIONS—Bankruptcy, Effect on Lease	552
Charter, as a Contract	358
Dissolution, Effect on Lease	554
Foreign, Licensing of	229
Foreign, Removal of Suits by	897
Foreign, State Taxation of	68
Leases, Effect of Bankruptcy	552
Leases, Effect of Dissolution	554
Unincorporated Association as a Party	245
COURTS—Jurisdiction over Government-owned Ships	407
Jurisdiction Without Personal Service	422
COURTS MARTIAL—Constitutionality of	6
Jury in	405
CRIMES—(See also Evidence)	
Arrest and Conviction as Affecting Credibility.....	126
Assault with Intent to Kill	234
Attempt, Preparation, Solicitation Distinguished.....	542
Conspiracy, Indictment for	359
Construction of Statutes	120
Double Jeopardy, Indictment for Perjury for Acquitted Person..	802
Evasion of Federal Tax	157
Extradition	406, 791
Husband's Liability for Wife's Crime	547
Indefiniteness of Statute	402
Indictment, Allegation of Implied Essentials	448
Indictment, Sufficiency of	107
Insanity as a Defense	614
Insanity, Burden of Proof	672
Intent	10, 109, 614, 792
Jurisdiction of Defendant Illegally Brought in.....	449, 536, 791
Justification, Burden of Proof	777
Mens Rea	911
Mistake of Fact	108, 109, 614
Power to Punish	221
Recommendation of Mercy	110
Self Incrimination	390

CUSTOM—In International Law	112, 114
DAMAGES—Condemnation Proceedings	287
Emotional Disturbance	497
DEATH—Action for Causing	236
DECLARATORY JUDGMENTS—(See also Judgments).....	218, 775
DEEDS—Effect of Recording	344
Mental Capacity to Make	912
DISCRETIONARY ACT	848
DIVORCE—Foreign Decree	237
“DOING BUSINESS”	363
DOMESTIC RELATIONS—(See Persons)	
DOMICILE—Of a Wife	86
DRUGS—(See Food, Intoxicating Liquors)	
DUE PROCESS—(See also Constitutional Law)	
Hearing in Tax Cases	162
Personal Service as a Requisite to Jurisdiction.....	422
ECONOMICS—Interpretation of Fourteenth Amendment.....	737
Judicial Economics	577
EIGHTEENTH AMENDMENT	3
EMINENT DOMAIN	287
EMOTIONAL DISTURBANCE	497
EQUITY—Cancellation of Instruments	792, 795
Contract for Benefit of Third Person	543
Contract to Sell Chattels, Specific Performance of.....	543
Mutuality in Specific Performance	289
Penalties and Forfeitures, Relief from	646
Usurpation of Duties, Injunction	794
ERROR—(See Appeal, Trial)	
ESTOPPEL—Of Owner Who Has Given Possession to Another.....	458
From Setting up Statute of Frauds	356
EVIDENCE—Books of Account, Admissibility of	530
Burden of Proof, as to Justification	777
Burden of Proof, as to Carrier's Negligence.....	350
Burden of Proof, as to Insanity	672
Character, Proof of.....	777, 796

TABLE OF CONTENTS

xi

Compulsory Returns for Taxation Purposes.....	427
Credibility of Witnesses	126
Determination of Character of Confession by Judge or Jury.....	912
Directing Verdict	240
Dying Declarations	671
Examination of Person	451
Expert Witnesses, "Very Issue"	360
Illegally Secured	93, 108, 353, 390
Insanity, Burden of Proof	672
Opinion	451, 673
Other Crimes, to Show System	235
Presumption of Undue Influence	459
Presumption, Probative Value of	41
Refreshing Recollection	673
Res Gestae	797
Seal, Effect of	441
Self Incrimination	394
Veracity, Proof of	796
EXAMINATION—Of Person	451
In law	514
EX POST FACTO—Meaning of	315
EXTRADITION.....	406, 536, 791
FALSE IMPRISONMENT—Consent as a Defense	798
FEDERAL TRADE COMMISSION—Powers of	122, 781
FIRE PROTECTION	263
FOOD AND DRUGS—Conflict of Laws as to	493
Regulation of Sale	264
FORFEITURES—Relief from	646
FOURTEENTH AMENDMENT—Interpretation of	737
FRAUD—As an Inducement to Marry	454
FREEDOM OF SPEECH	11, 265, 401
Right of Aliens	538
FRIGHT—As Legal Damage	497
FUTURE INTERESTS—Assignment of Expectancy	786
GIFTS—Transfer of Possession of Savings Account.....	545
GOOD FAITH—What is	681
HABEAS CORPUS—Suspension of	589

HIGHWAYS—Liability of Abutting Owner for Defects	546
Ownership of Fee	778
Regulation of	283
Vacating of	778
HUSBAND AND WIFE—(See Persons)	
HYDROPLANE—As a “Vessel”	664
ILLEGALITY—(See Contracts)	
IMMIGRATION—Taxation of	181
IMPAIRMENT OF OBLIGATION OF CONTRACTS	358, 381
INCOME TAX—(See Taxation)	
INCUMBRANCES—Way of Necessity	234
INDEMNITY ACT	589
INDUSTRIAL RELATIONS—(See also Injunction)	267
Kansas Industrial Court Act, Constitutionality of	893
Supreme Court Decisions on	267
INJUNCTION (See also Equity, Remedies)	
Against Labor Unions	242, 657
By Contingent Remainder-man to Prevent Waste	799
Declaring Rights By	218
In Labor Disputes	242, 657
Of Lawful Act for Unlawful Purpose	548
Ouster of Official to Prevent	238
Usurpation of Duties, to Prevent	794
INNKEEPERS—Liability of	674
INSANITY—As a Defense to Criminal Liability	614
Burden of Proof	672
INSTRUCTIONS—Duty of Court to Give	365
INSURANCE—Acceptance of Application Through Silence	790
By Carrier, of Goods	765
Forfeiture Because of Cremation of Body	549
Incontestability Clause, Effect of	111
“Risks of Military Service”	550
Sunstroke as “Accident”	674
INTENT—(See Crimes)	
INTERNATIONAL LAW—(See Law of Nations)	
INTERSTATE COMMERCE—(See Commerce, Constitutional Law)	

TABLE OF CONTENTS

xiii

INTERSTATE COMMERCE COMMISSION—Powers of	675, 699
INTERVENTION—(See Remedies)	
INTOXICATING LIQUORS—See also Crimes, Evidence)	
Penalty for Evading Tax	157
Police Power Over	195
Reed Amendment	136
Scope of Eighteenth Amendment	3
JOINT TENANCY—In Personal Property	219
JUDGES—In the British Cabinet	24
In the Executive Council	716
Salaries, Taxation of	540
JUDGMENTS—Collateral Attack, Trial for Perjury as.....	802
Declaratory	218, 436, 775
“Full Faith and Credit of”	486
Res Adjudicata when Relators are Different	681
Service by Publication	237
Sheriff's Return on Summons, Effect of	562
JURISDICTION—(See also Courts)	
Admiralty	476
Admiralty, Ship Under Construction	535
Consent as Affecting	907
Contracts in Restriction of	670
Of Defendant Illegally Brought Within.....	449, 536
Of Federal Courts	469
Procedural Requirements	482
Sheriff's Return of Service as Affecting	562
Trespass to Real Property	913
JURY—In Courts Martial	405
Women as Jurors	669
LABOR—Industrial Court, Constitutionality of	893
Injunction in Labor Disputes	242, 657
Regulation of	206, 267
LANDLORD AND TENANT—Assignment of Lease Without Consent	
.....	552, 554
Liability for Infected Premises	551
New Tenancy upon Waiver of Notice to Quit	914
LAW OF NATIONS—(See also Citizenship)	
Acts of Unrecognized Government	243
Confiscation of Enemy Property	112
Effect on Liens of Sale of Enemy Ships	553
Effect of Treaty of Peace	113

Effect of War on Contracts	676
Enemy Ships in Port	114
Extradition	536
Immunity of Merchant Ships Owned by State	771
Requisitioned Ships	407
LAW SCHOOL NEWS	887
LAWYERS' CLUB AT MICHIGAN	887
LEASES—Illegality of "Tying Clauses" in Leases of Machinery	911
LEGISLATION—Delegation of Power	652
LIABILITY—Of Abutting Owner for Highway Defects.....	546
Of Carrier in Absence of Notice of Injury	668
Of Carrier as Insurer	765
Of Carrier for Mis-delivery	667
Of Carrier for Baggage not Accompanied by Owner	787
Of Husband for Non-necessaries	452
Of Husband for Wife's Crime	547
Of Innkeeper	674
For Inducing Breach of Contract	683
Of Law Breaker for Negligence	677
Of Landlord for Infected Premises.....	551
Of Lessor of Defective Automobile	561
Limitation of, by Telegraph Company	445
Of Manufacturer to Third Party	364
Of Master for Acts of Servant	98
Of Military Officers	589
"Proximate Cause"	664
Of State-owned Merchant Ships	771
For Unintended Crime	614
Of Unincorporated Union	683
LIENS—Loss of	361
Effect on, of Sale by Government of Enemy Ships	553
MARITIME LAW—(See Admiralty)	
MARRIAGE—Annulment for Fraud	454
Common Law	244
MASTER AND SERVANT—(See Persons)	
MISTAKE—(See Crimes, Equity)	
MONOPOLIES—Illegality of "Tying Clauses" in Leases of Machinery..	911
Intelligent Competition as	901
Resale Price Maintenance as	904
Unfair Competition	781

TABLE OF CONTENTS

xv

MORTGAGES—Destruction of Property Pending Confirmation of Sale..	554
MUNICIPAL CORPORATIONS—Charitable Bequests to	228
"Indebtedness"	555
Ordinances	116
Powers of Commissioners	794
Rate Regulation by	224
Streets, Vacation of	778
Zoning	455
NATURAL RIGHTS	212
NAVIGABLE WATERS—Power of Congress Over	135
NEGLIGENCE—Agent's Liability for	906
Assumption of Risk	116
Attractive Nuisances	117
Contributory, Implied by Law	801
Contributory, Jury Question	538
Duty of Lessor of Automobile	561
Illegal Act, Effect of	677
Imputed	556
Manufacturer's Liability to Third Parties	364
Proximate Cause	664
Res Ipsa Loquitur	916
"NET INCOME"	577
NUISANCES—Attractive	117
Tuberculosis Sanitarium as	457
OIL AND GAS—Nature of Lessee's Interest	118
PARTIES—(See also Pleading)	
"Citizens of Different States"	474
State as	478
Unincorporated Associations as	245
PARTNERSHIP—Guarantees of Bonds, Burden of Proof.....	678
PATENT LAW—Scope of Invention	457
Illegality of "Tying Clauses" in Leases of Machinery	911
PENALTIES—Relief from in, Equity	614
PENOLOGY—(See also Crimes)	
Intent as Affecting Liability	614
PERJURY—Prosecution for as Collateral Attack on Judgment.....	802

PERSONS—"Child," Meaning of in Statute	446
Domicile of a Wife	86
Husband's Liability for Non-necessaries of Wife	452
Husband's Liability for Wife's Crime	547
Infant Trespassers, Duty Towards	117
Liability of Master for Acts of Servant	98
Master's Duty to Provide Safe Instrumentalities.....	116
Women as Jurors	669
PHILOSOPHY OF LAW	577
PLEADING—(See also Crimes, Parties)	
Admission of Partial Liability, Effect of.....	679
Adversary Parties	90
Equitable Reply to Legal Defense	680
POLICE POWER—Conservation of Resources	261
Conduct	265
Fire Protection	263
Food and Drugs	264
Growth and Development	173
Impairment of Contracts	382
Industrial Relations	206, 267
Interstate Commerce	140
Master and Servant Regulation.....	206
Methods of Enforcement	273
Occupations	264
Post Office Employees	492
Prohibition	195
Race Legislation	201
Rate Regulation	192
Rights of Action	267
POSSESSION—Transfer of Savings Account	545
POSTAL REGULATION	6, 488, 492
PRICE RESTRICTION—By Congress.....	9, 275
By Individual Effort	904
PROCEDURE—Adversary Parties	90
PROXIMATE CAUSE	664
PUBLIC OFFICERS—Protection of by Injunction	238
PUBLIC UTILITIES—Rate Regulation	192, 224, 557
Regulation of	273, 699
Right to Discontinue Service	803
PURCHASER IN GOOD FAITH—Who is.....	347

TABLE OF CONTENTS

xvii

QUO WARRANTO—Res Adjudicata	681
RACE LEGISLATION	201
RAILROADS—Compulsory Construction of	699
RAPE—Compulsory Examination of Person	451
RATE REGULATION—By Municipality	224
Constitutionality of	192, 557
Extra Charge for Insurance	765
Judicial Review	231
“Net Income”	577
Power of I. C. C. over Intrastate Rates.....	675
Relation of Inter- and Intrastate Rates	279
REAL PROPERTY—Covenants for Title	234
Rule in Shelley’s Case	246
Streets, Ownership of Fee	778
Waste, Injunction by Remainder-man	799
Way of Necessity as Incumbrance	234
RECORDING—Operation and Effect	344
REGULATION OF BUSINESS	273
REGULATION OF RATES—(See Rate Regulation)	
REGULATION OF RENTS—(See Rent Regulation)	
REMEDIES—(See Specific Performance, etc.)	
Intervention in Attachment	96
Mandamus	116
Seller’s or Buyer’s Refusal of Title	120
RENT REGULATION	274
RES ADJUDICATA—(See Judgments)	
RES IPSA LOQUITUR—Explosion of Boiler	916
RESTRAINT OF TRADE—Contracts to Refrain from Competition....	541
RESTRICTIONS—Building	119
RETROACTIVE LEGISLATION	381
RIPARIAN RIGHTS—(See also Water and Watercourses)	
Use of Water	686
SALES—Action on Buyer’s Refusal of Title	120
Bulk Sales Act	909
Definition	362
Good Faith, What is	681

Possession as Indicating Title	458
Rescission on Seller's Breach of Condition	560
Rights of Third Parties under Warranties	916
SEALED INSTRUMENTS—Liability Under, to Undisclosed Principal..	441
SEARCH AND SEIZURE—Evidence so Secured	93, 108, 353
Immunity from	390
SHERMAN ACT	136
SOLDIERS' BONUS	352
SPECIFIC PERFORMANCE—At Law	439
Contract to Sell Chattels	543
Mutuality of Remedy	289
Relief on Terms	299
Varying Terms of Contract	248
Voidable Contracts	247
STATES RIGHTS	177, 212
STATUS—(See also Liability, Persons)	
Relation of Manufacturer to Third Party	364
STATUTE OF FRAUDS—Contents of Memorandum	249
Creation of a Trust	369
Oral Rescission of Contract	358
Oral Variation of Contract	356
STATUTE OF LIMITATIONS—Waiver of	789
STATUTES—Bulk Sales Act	909
Clayton Act	242
Desert Land Act	805
Interpretation of	120, 221, 236
Internal Revenue Act	432, 527
Kansas Industrial Court Act	893
Sherman Act	136, 901
Transportation Act	699
STERILIZATION OF CRIMINALS	101
STOCK DIVIDENDS—As Income	560, 682
SUBROGATION—Of Employer Under Compensation Acts	660
SUFFRAGE—Validity of Nineteenth Amendment	102
TAXATION—Child Labor Production	446
Commerce Clause, Effect of, on State Power	50
Discrimination	65

TABLE OF CONTENTS

xix

“Doing Business”	363
Equal Protection	166
Excess Profits	230
Exemptions	385
Hearing	162
Federal Power	151, 495
Federal Banks	494
Foreign Corporations	68, 229
Immigration	181
Income, What is	151, 540, 560, 577, 682
Income as Property	433
Internal Revenue Act	432, 527
Interstate Commerce	144
“Net Income”	577
Privileges and Occupations	59
Property and Persons in Transit	52
Requiring Information as to Non-taxable Property.....	527
Salary of Federal Judges	540
Soldiers’ Bonus	352
Special Assessments	168
State Functions, Exemption of	495
Stock Dividends	560, 682
Transfer Tax	161
Trust Property	367
TENANTS—(See Landlord and Tenant)	
TERRITORIES—Application of Constitution to	215
TORTS—(See Liability, Negligence, etc.)	
TRADE NAMES—Descriptive Words	684
TRANSPORTATION ACT—Compulsory Construction of Railroads...	699
TRESPASS—Continuing	337
Local Action	913
TRIAL—(See also Appeal and Error Instructions)	
Dismissal, Plaintiff’s Right to	366
Examination of Jurors for Ulterior Purpose	563
Exclusion of Juror Having Preconceived Opinion	453
Incompetence of Attorney as Ground for New Trial.....	684
Instruction on Lower Degree of Crime Without Evidence Thereof as Error	917
Notes of Evidence, Use in Argument	777
Officer’s Return on Summons, Effect of	562
Recommendation of Mercy	110
Reversible Error, What is	664
Review of Trial Court’s Finding of Fact	665
Withdrawal of Witness to Refresh Recollection	673

TRUSTS—Charitable, Definiteness of	685
Creation by Parol	369
Evasion of Statute by	804
Grain Company as Trustee of Proceeds from Sale of Mort- gaged Grain	918
Insurance to Trustee	804
Monopolies	136, 191
Nature of Cestui's Right	367
Resulting from Purchase with Wife's Money	564
UNFAIR COMPETITION—Deception of Consumers	122
Furnishing Means to Retailer	918
Protection of the Public	919
Use of Similar Name	684
What is	781
VASECTOMY	101
WARRANTY—Against Incumbrances	234
Rights of Third Parties under	916
WATERS AND WATERCOURSES—Desert Land Act	805
Riparian Rights	123, 686
WILLS—Charitable Bequest for Care of Burial Lot	228
Construction—Repugnant Clauses	920
Heirs, Interpretation of	246
Latent Ambiguities	251
Oral Declarations	251
Partial Invalidity	252
Revocation by Marriage	921
Rights of Action as "Estate"	369
Subscribing Witness, Gift to	124
Time of Vesting of Remainder	558
Undue Influence, Intent	125
Undue Influence, Presumption of	459
WITNESSES—(See Evidence)	
WOMEN—As Jurors	669
WOMAN SUFFRAGE—(See Suffrage)	
WORKMEN'S COMPENSATION—Accidental Injury	253
Admiralty	535, 664
Emergencies	806
Injuries Arising Out of Employment	687
Powers of Commission	271
Subrogation of Employee	660

BOOK REVIEWS

BABB—Commercial Law Cases.....	377
BAKER—Governmental Control and Operation of Industry in Great Britain and the United States During the World War.....	816
BALLANTINE—Preparation of Contracts and Conveyances, with Forms and Problems.....	462
BOGERT—Handbook of the Law of Trusts.....	130
British Year Book of International Law, 1921-1922.....	463
CARDOZO—Nature of the Judicial Process.....	688
COLLIER—Law and Practice in Bankruptcy.....	256
CORBIN—Cases on the Law of Contracts.....	373
COSTIGAN—Cases on the Law of Contracts.....	373
FOUILLÉE—Modern French Legal Philosophy.....	464
GILBERT—Law and Practice in Bankruptcy under the National Bankruptcy Act of 1898.....	256
GRAY—Nature and Sources of the Law.....	569
HARVEY—American Foreign Trade	690
HICKS—Men and Books Famous in the Law.....	371
HOLMES—Collected Papers	255
KALES—Estates, Future Interests and Illegal Conditions and Restraints in Illinois	460
KOHLER—Philosophy of Law.....	464
MACMURRAY—Treaties and Agreements with and Concerning China, 1894-1919	923
MALCOLM—Constitutional Law of the Philippine Islands	926
MIRAGLIA—Comparative Legal Philosophy.....	464
NOTESTEIN—Commons Debates for 1629	693
NOTZ—American Foreign Trade.....	690
Oakey—Principles of Government Accounting and Reporting	375
PERRIN—Commercial Law Cases.....	377
POUND—Spirit of the Common Law.....	809

Proceedings of the Hague Conferences	696
RELF—Commons Debates for 1629.....	693
ROSBROOK—Law and Practice in Bankruptcy under the National Bank- ruptcy Act of 1898.....	256
SALTER—Allied Shipping Control.....	571
SCHOULER—Law of Marriage, Divorce, Separation and Domestic Relations	924
Science of Legal Method	464
SNOW—Question of Aborigines in the Law and Practice of Nations.....	376
SNOW—American Philosophy of Government.....	694
TAFT—Occasional Papers and Addresses of an American Lawyer.....	696
TIFFANY—Handbook on the Law of Persons and Domestic Relations....	461
VECCHIO—Formal Bases of Law.....	464
VINAKE—Modern Constitutional Development in China.....	574
WEBER—Organized Efforts for the Improvement of Methods of Admin- istration in the United States.....	569
WIGMORE—Problems of Law: Its Past, Present, and Future.....	566
WILCOX—Analysis of the Electric Railway Problem.....	129
WILLIAMS—History of the San Francisco Committee of Vigilance of 1851..	922
WILLIAMS—Papers of the San Francisco Committee of Vigilance of 1851..	922
WILLISTON—Law of Contracts	923
WILSON—First Year of the League of Nations.....	257
WINFIELD—History of Conspiracy and Abuse of Legal Procedure.....	814
WOODRUFF—Selection of Cases on the Law of Domestic Relations and Persons	571

CASES COMMENTED UPON

A

Agricultural Ins. Co. v. Higginbotham	240
American Column and Lumber Co. v. United States	901
American Hawaiian S. S. Co. v. Willfuehr	356
American Ry. Express Co. v. Galt	769
American Steel Foundries v. Tricity, etc., Co.	658
Amos v. United States.....	95, 529
Amstutz v. King	337
Anderson v. Jenny Motor Co....	801
Anway v. Grand Rapids Ry. Co.	218
Atkinson v. Indiana Nat. Life Ins. Co.	350

B

Baca v. Padilla	332
Baker v. James Bros. & Sons....	116
Bank v. Randell	908
Bank of Brookings v. Aurora Grain Co.	918
Bank of Chicago v. Rogers, Brown & Co.	227
Bartlesville, City of, v. Corporation Commission	226
Bassett v. American Baptist Pub. Soc.	107
Baxter v. Park	117
Beaden v. Bransford Realty Co.	104
Beaver v. Slane	366
Beck v. Keidan	238
Bethlehem Motors Corporation v. Flynt	229
Billingsley v. United States....	533
Black v. Hunt	677
Blanchard & Sons Co. v. American Realty Co.	437
Bland v. Chicago, etc., Co.....	350
Blonde and Other Ships.....	114
Bloodsworth v. Murray	441
Boardman Co. v. Petch	362

Boddy v. Continental Investment Co.	364
Borough v. Minneapolis & St. L. Ry. Co.	442
Brender v. Stratton	368
Briggs v. Miller	650
Brink v. Shepard	457
Brown v. Brown	800
Brubaker v. Iowa Co.	556
Burdeau v. McDowell	353
Burton v. Holman	459
Buschow Lumber Co. v. Hines..	768

C

Caessna v. Adams.....	804
Caine v. Cleveland, C., C. & St. L. Ry. Co.	787
Carolinian, In re	533
Central Power Co. v. City of Kearney	226
Chase v. Washtenaw Circuit Judge	96
Chester v. Carmichael	555
Clark v. Johnson	347
Collette v. Page	562
Commonwealth v. Puntario....	797
Cook et al. v. Evans et al.	805
Crawford v. Hurst	564
Crocker v. Barron	916
Cummington Realty Associates v. Whitten	541
Cyrus Currier & Sons v. International Molders Union	683

D

Demezuk v. Jenifer	236
Deposit Company v. Johnson....	361
Des Moines, City of, v. Manhattan Oil Co.	455
Doctorman v. Schroeder	646
Dominguez v. State	536
Donnelly v. Payne	538

E	
Edberg v. Johnson	121
Eli Lilly & Co. v. Wm. R. Warner & Co.	919
Emery & Co. v. American Refrigerator Transit Co.	906
Evans v. Gore	540
Exporters of Manufacturers' Products Co. v. Butterworth-Judson Co.	907
F	
Fahey v. Baltimore and Ohio R. Co.	348
Farrow's Bank, In re	554
Federal Trade Commission v. Beechnut Packing Co.	904
Federal Trade Commission v. Winsted Hosiery Co.	919
Fellers v. Howe	444
Ferdinand, ex-Tsar of Bulgaria, In re	113
First National Bank v. Mock....	789
Fisher v. Star Co.	240
Forrest v. Benson	458
Freeman v. Evans	915
G	
Gaither v. Charlotte Motor Car Co.	670
Gasaway v. Borderland Coal Corporation	549
Gendleman v. Mongillo	250
George v. Bailey	446
Gierth v. Fidelity Trust Co.	795
Gillmann v. Dressler	921
Gilmer Bros., Inc., v. Wilder Mercantile Co.	232
Globe & Rutgers Fire Ins. Co. v. Hines	90
Gonier v. Chase Companies	687
Gooch v. Oregon Short Line Co.	668
Gordonsville, Town of, v. Zinn..	123
Gouled v. United States	93, 528
Green's Estate, In re	363
Gregg School Twp., Morgan Co. v. Hinshaw	448
H	
Harrison v. McPherson	788
Hartford Distillery Co. v. N. Y. R. Co.	667
Hinson v. State	672
Homan v. Aukerman-Tuesburg Motors	682
Horton v. Gwynne	109
Howell v. State	111
Hubbell v. Ohler	248
Ideal Fuel Co. v. Industrial Commission	254
I	
Inland Revenue Commissioners v. Blott	682
International Brotherhood of Locomotive Engineers v. Green..	245
International, etc., Union v. Cloak, etc., Association	660
J	
Jackson v. Ruby	454
Jaynes v. Weickman	684
Jennings v. Jennings	355
Johnson's Estate, In re.....	124
Jones, In re	791
Jones v. Bland	674
Jones v. State	234
Jutras v. Boisvert	666
K	
Kausch v. Chicago & Milwaukee Electric R. Co.	664
Keedy v. Stealing Electric App. Co.	909
Kellogg v. Winchell	335
Kinney-Rome Co. v. Federal Trade Commission	783
Kleinman v. Banner Laundry Co.	916
Kraft v. West Hotel Co.	806
Kroner v. Order of United Commercial Travelers of America	549
Kutchera v. Graft	551

TABLE OF CONTENTS

xxv

L

La Belle Iron Works v. United States	230
Lagumis v. Gerard	442
Lamar, Ex parte	449
Lechler v. Montana Life Ins. Co	790
Leser et al v. Garnett et al, Board of Registry	102
Liberty, In re	533
Lindberg v. Murray	793
Lindenburg v. American Ry. Express Co.	769
Lindy-Friedman Clothing Co., In re	552
Lingquist v. Loble	910
Link v. Public Utilities Commission	225
Lober v. Dorgan	219
Loring v. Young	100
Luther v. Sagor & Co.	244

M

McDonald v. State	792
McClelland v. State	235
McCoy v. McCoy	237
McQuade v. Wilcox	345
Mahmoud and Ispahani, In re ...	106
Mahony v. Standard Gas Engine Co.	560
Mansfield v. Gushee	532
Marie Leonhardt	114
Marshall v. Carr	250
Martin v. Palmer	920
Martin and Lanier Paint Co. v. Daniels	120
Martz v. Selig Dry Goods Co....	452
Medoff v. Vandersaal	247
Meints v. Huntington	798
Mettler v. Ames Realty Co.	686
Michigan Central R. Co. v. Mark Owen & Co.	351
Moore et al v. Seay & Co.	233

N

Nuttalburg Smokeless Fuel Co. v. First Nat'l Bank	562
Nyanza, The	553

O

Ohio Valley Water Co. v. Ben Avon Borough	231
One-Piece Bi-Focal Lens Co. v. Stead	457
Opinion of the Justices, In re	359, 652
Oscar Schlegel Mfg. Co. v. Peter Cooper's Glue Factory	105

P

Paper Products Machine Co. v. Safepack Mills	103
Parnall v. Farson	678
Patterson v. Howe	673
Pearre v. Grossnickle	545
People v. Garner	453
People v. Geary	360
People v. Le Vasseur	108
People v. Niles	802
People v. Schulman	685
People v. Sybisloo	547
People v. Utter	912
People v. Westchester Nat'l Bank	352
People v. Willy	777
Pesaro, In re	771
Phez Co. v. Salem Fruit Union..	543
Plotner v. Northwestern Life Ins. Co.	111
Plews v. Burrage	680
Poliakoff v. American Ry. Express Co.	769
Powell v. McKinney	558
Prall v. Burckhardt	781

Q

Quilliam v. Union Trust Co.	252
Quinlivan v. Dail-Overland Co..	242

R

Railroad Commission of Wisconsin v. C. B. & Q. R. Co.	675
Raymer v. Trefrey	433
Reed v. Blum	234
Reinhardt v. Newport Flying Service Corporation	664
Renner v. Model Laundry Co. ..	660

TABLE OF CONTENTS

xxvii

Western Union Telegraph Co. v. Esteve Bros.	445	Wilson v. St. Joe Boom Co.	563
Williams v. Smith	101	Winer v. Hooper	347
Williamson, Ex parte	222	Winsted Hosiery Co. v. Federal Trade Commission	122, 785
Wilmans v. Harston	799		
Wilmington Trust Co. v. Hend- rixson	244	Z	
		Zacharias v. Nesbitt	546